

IN THE DISTRICT COURT  
OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

DONNA DORSEY DAVIS, as an individual and derivatively upon behalf of I-65 PROPERTIES, INC.,	*
	*
	*
	*
PLAINTIFF,	*
	Civil Action No.
	*
	2:06cv766-MHT
VS.	*
	*
RICHARD M. DORSEY, as an individual and CD&O, LLC as a necessary party.	*
	*
	*
	*
DEFENDANTS.	*

**DEFENDANT'S NINTH MOTION IN LIMINE**

COMES NOW the Defendant, *Richard M. Dorsey*, and hereby moves the Court to prohibit the Plaintiff, her attorney, or any witnesses from introducing by way of testimony or documentary evidence, information about the following subject:

Any evidence relating to or any opinion of the best or highest use of the property. This allegation has been dismissed by the Court by way of summary judgment.

To allow such evidence would only serve to prejudice the Defendants. It would also cause a mini trial on claims not advanced by the Plaintiff and which are immaterial and irrelevant to the Plaintiff's claims, or which have been dismissed by the Court. Any probative value of this evidence is substantially outweighed by its prejudicial effect. *Fed. R. Evid. 401, 402 and 403; Hapring v. Continental Oil Company, 28 F.2d 406, 410 (5<sup>th</sup> Circ. 1980)* (excluding evidence that unduly prolongs the trial).

RESPECTFULLY SUBMITTED,

By: //s// Clifford W. Cleveland  
Attorney Code: CLE007

***OF COUNSEL:***

*The Law Office of  
Cleveland & Colley, P. C.  
Post Office Box 680689  
Prattville, Alabama 36068  
(334) 365-1500*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 9th day of July, 2007, I electronically filed the foregoing with the Clerk of the Court using electronic filing system which will send notification of such filing to the following:

Lindsay B. Erwin, Esquire  
3516 Vann Road, Suite 114  
Birmingham, Alabama 35235

James E. Roberts, Esquire  
4908 Cahaba River Road  
Birmingham, Alabama 35243

/s/ Clifford W. Cleveland  
OF COUNSEL